

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHELLE MCCARRON
Deputy Attorney General
4 State Bar No. 237031
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 916-A

12 **IVAN WAI-KUEN CHIU**
13 **2160 Parnell Way**
14 **Altadena, CA 91001**
15 **Land Surveyor License No. L 6762**
16 **Civil Engineer License No. C 44672**

A C C U S A T I O N

Respondent.

17
18 Complainant alleges:
19

20 **PARTIES**

21 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity
22 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,
23 Department of Consumer Affairs.

24 2. On or about June 26, 1992, the Board for Professional Engineers and Land Surveyors
25 issued Land Surveyor License Number L 6762 to Ivan Wai-Kuen Chiu (Respondent). The Land
26 Surveyor License was in full force and effect at all times relevant to the charges brought herein
27 and will expire on September 30, 2012, unless renewed.

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4

5
6
7
8

9

10

11
12

13

14
15
16
17
18
19

20

21

22

23
24

25

26

27

28

1 7. Section 8762 of the Code states in part:

2 “(a) Except as provided in subdivision (b), after making a field survey in conformity with
3 the practice of land surveying, the licensed surveyor ... may file with the county surveyor in the
4 county in which the field survey was made, a record of the survey.

5 “(b) Notwithstanding subdivision (a), after making a field survey in conformity with the
6 practice of land surveying, the licensed land surveyor ... shall file with the county surveyor in
7 the county in which the field survey was made a record of the survey relating to land boundaries
8 or property lines, if the field survey discloses any of the following:

9

10 (2) A material discrepancy with the information contained in any subdivision map, official
11 map, or record of survey previously recorded or filed in the office of the county recorder or the
12 county surveying department, or any map or survey record maintained by the Bureau of Land
13 Management of the United States. For purposes of this subdivision, a “material discrepancy” is
14 limited to a material discrepancy in the position of points or lines, or in dimensions.

15 (3) Evidence that, by reasonable analysis, might result in materially alternate positions of
16 lines or points, shown on any subdivision map, official map, or record of survey previously
17 recorded or filed in the office of the county recorder or the county surveying department, or any
18 map or survey record maintained by the Bureau of Land Management of the United States.

19

20 “(c) The record of the survey required to be filed pursuant to this section shall be filed
21 within 90 days after the setting of boundary monuments during the performance of a field survey
22 or within 90 days after completion of a field survey, which ever occurs first.”

23 8. Section 8780 of the Code states in part:

24 “The board may receive and investigate complaints against licensed land surveyors and
25 registered civil engineers, and make findings thereon.

26 “By a majority vote, the board may reprove, suspend for a period not to exceed two years,
27 or revoke the license or certificate of any licensed land surveyor or registered civil engineer,
28

1 respectively, licensed under this chapter or registered under the provisions of Chapter 7
2 (commencing with Section 6700), whom it finds to be guilty of:

3

4 "(b) Any negligence or incompetence in his or her practice of land surveying.

5

6 "(d) Any violation of any provision of this chapter or of any other law relating to or
7 involving the practice of land surveying.

8

9 "(h) A violation in the course of the practice of land surveying of a rule or regulation of
10 unprofessional conduct adopted by the board."

11 STATE REGULATORY PROVISIONS

12 9. California Code of Regulations, title 16, section 404, subparagraph (n) states:

13 "(n) For the sole purpose of investigating complaints and making findings thereon under
14 Sections 6775 and 8780 of the Code, "incompetence" as used in Sections 6775 and 8780 of the
15 Code is defined as the lack of knowledge or ability in discharging professional obligations as a
16 professional engineer or land surveyor."

17 10. California Code of Regulations, title 16, section 476 states in part:

18 "(e) Document Submittal:

19 (1) A licensee shall not misrepresent the completeness of the professional documents he or
20 she submits to a governmental agency.

21 (2) A licensee shall not misrepresent the completeness of the professional documents he or
22 she prepared to his or her client or to other involved parties."

23 COST RECOVERY

24 11. Section 125.3 of the Code provides in part, that the board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 12. Respondent is subject to disciplinary action under section 8780, subdivision (b), in
4 conjunction with California Code of Regulations section 404, subdivision (n), in that Respondent
5 lacked the knowledge or ability in discharging professional obligations as a land surveyor. The
6 circumstances are as follows:

7 a. Respondent performed a survey for a property located at 638 Groton Drive in
8 Burbank, California. Respondent surveyed the property and created a topographical map.
9 However, Respondent did not include the method for how he derived the survey results without
10 recovering any monumentation in Groton Drive. Respondent did not set corners or perform
11 research relating to monumentation or previous surveys.

12 b. Respondent's topographic map depicts property dimensions to the hundredth of a foot
13 and includes building setback dimensions from the property line. Respondent's inclusion of
14 building setback dimensions from the property line represents the establishment of the boundary
15 in relation to the existing residence. Respondent failed to provide information that would tie his
16 survey into any previous controlling survey or monumentation, which is needed to establish the
17 boundary of the property. Respondent failed to file a record of his survey with the County of Los
18 Angeles.

19 c. There is no information showing that Respondent performed a records search for
20 monuments which is necessary to reestablish the boundary of the property. Respondent's
21 topographical map does not show that he located monuments on Groton Drive. Nor did
22 Respondent gather sufficient evidence to relate found monumentation to the record data. In
23 particular, Respondent did not research centerline ties, corner records or other mapping research
24 in performing his survey. There is no indication that Respondent conducted an analysis of the
25 field and record data to establish the boundary line of the property on Groton Drive. Lastly,
26 Respondent did not prepare and deliver a map showing all information pertinent to the
27 establishment of the property boundary.

28 ///

1 d. Respondent's survey represents the establishment of the boundary in relation to the
2 existing residence by including setback dimensions from the property line. Respondent does not
3 provide any information on how his survey ties into a previous controlling survey or monument
4 of any kind. Since Respondent's survey shows boundary, property lines, and set back
5 dimensions, he should have set corners, because it is foreseeable that his survey on its face would
6 be used to obtain permits from the city building department, and that the city building department
7 would rely on his survey to be an accurate representation of the facts on the ground obtained
8 during his survey.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Failure to File Survey Relating to Land Boundaries & Property Lines)**

11 13. Respondent is subject to disciplinary action under section 8762, subdivision (b),
12 subparagraphs (2) and (3), in that Respondent's survey required him to file a record regardless of
13 the type of survey Respondent purportedly performed due to his survey's establishment of the
14 boundary in relation to the existing residence by his inclusion of building setback dimensions
15 from the property line.

16 a. 8762(b)(2): Respondent failed to tie his survey into monuments or a previous
17 controlling survey so, his survey by reasonable analysis might result in materially alternate
18 positions of lines, points or dimensions. Complainant's allegations as set forth in paragraph 12,
19 subparagraphs (a) through (d), are incorporated by reference as though fully set forth.

20 b. 8762(b)(3): Respondent's survey represents evidence, that by reasonable analysis
21 may result in materially alternate positions of the boundary, setbacks, and existing buildings
22 shown on the corresponding subdivision map. Complainant's allegations as set forth in paragraph
23 12, subparagraphs (a) through (d), are incorporated by reference as though fully set forth.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Failure to File Record of Survey)**

26 14. Respondent is subject to disciplinary action under section 8762, subdivision (c), in
27 that Respondent's survey required him to file a record of the survey within 90 days after setting
28 the boundary monuments or within 90 days after completion of a field survey. Respondent did

1 not file a record of the survey with the Los Angeles County Surveyors Office. Complainant's
2 allegations as set forth in paragraph 12, subparagraphs (a) through (d) and paragraph 13, are
3 incorporated by reference as though fully set forth.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Violation of Board Rules and Regulations)**

6 15. Respondent is subject to disciplinary action under section 8780, subdivision (d), in
7 conjunction with California Code of Regulations section 476, subdivision (e), subparagraphs (1)
8 and (2), in that Respondent misrepresented the completeness of his survey. The circumstances are
9 as follows:

10 a. C.C.R. 476(e)(1): Respondent misrepresented the completeness of his topographical
11 map and survey that he submitted to the City of Burbank. Complainant's allegations as set forth
12 in paragraph 12, subparagraphs (a) through (d) and paragraphs 13 and 14, are incorporated by
13 reference as though fully set forth.

14 b. C.C.R. 476(e)(2): Respondent misrepresented the completeness of his topographical
15 map and survey that he prepared when another land surveyor inquired about the methods used to
16 generate Respondent's survey. Complainant's allegations as set forth in paragraph 12,
17 subparagraphs (a) through (d) and paragraphs 13 and 14, are incorporated by reference as though
18 fully set forth.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Violation of Contract Provisions)**

21 16. Respondent is subject to disciplinary action under section 8759 subdivision (a) in that
22 Respondent's contract for surveying services of the property located at 638 Groton Drive in
23 Burbank, California, violated the written contract provisions called for in the Land Surveyor Act
24 as follows:

25 a. 8759 (a)(3): Respondent failed to include his license number on the contract.

26 b. 8759(a)(5): Respondent failed to include a description of the procedure that
27 Respondent and the client would use to accommodate additional services.

28 ///

1 c. 8759(a)(5): Respondent failed to provide information to the client regarding how to
2 terminate the contract.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

5 17. Respondent is subject to disciplinary action under section 8780 subdivision (h), for
6 unprofessional conduct, based on the survey Respondent performed for a property located at 638
7 Groton Drive in Burbank. Complainant's allegations as set forth in paragraphs 12 through 16,
8 inclusive, are incorporated by reference as though fully set forth.

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **(Failure to File Organization Record)**

11 18. Respondent is subject to disciplinary action under section 8729 subdivision (1), in
12 that Respondent failed to file a current organization record form with the Board stating that his or
13 his company perform land surveying services.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a
17 decision:

- 18 1. Revoking or suspending Land Surveyor License Number L 6762, issued to Ivan Wai-
19 Kuen Chiu
- 20 2. Ordering Ivan Wai-Kuen Chiu to pay the Board for Professional Engineers and Land
21 Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Code
22 section 125.3; and
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: Sept 3, 2010

Original Signed

25 DAVID E. BROWN
26 Executive Officer
27 Board for Professional Engineers and Land Surveyors
28 Department of Consumer Affairs
State of California
Complainant